

APPEAL NO. 022747
FILED NOVEMBER 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 19, 2002. The hearing officer determined that the compensable injury sustained by the appellant (claimant) on _____, does not extend to a right retracted rotator cuff tear with impingement. The claimant appeals this determination. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

Conflicting evidence was presented at the hearing regarding the extent of the injuries sustained by the claimant on the date of injury. Extent of injury is a question of fact. Texas Workers' Compensation Commission Appeal No. 93613, decided August 24, 1993. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). While the hearing officer noted that the medical evidence reflects that the claimant complained of right arm and shoulder pain, the issue presented for resolution was whether the compensable injury extends to right retracted rotator cuff tear with impingement. The hearing officer concluded that the compensable injury does not include right retracted rotator cuff tear with impingement and nothing in our review of the record indicates that this decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Veronica Lopez
Appeals Judge

Robert W. Potts
Appeals Judge